IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No.1412 of 2006
TO
FIRST APPEAL No.1431 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL
AND
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether Their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the Civil Judge?

==========

SPL.LAQ OFFICER & ANR. - Appellants
Versus
PATEL BHAILALBHAI HIRABHAI - Respondents

==========

Appearance :
MR RC KODEKAR, AGP for Appellants in each appeal.
MR AJ PATEL for Claimants in each appeal.

==========

CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 04/05/2006
COMMON ORAL JUDGMENT

(Per: MR.JUSTICE J.M.PANCHAL)

Admitted. Mr.A.J.Patel, learned counsel, waives service of notice on behalf of the claimant(s) in each appeal. Having regard to the facts of the case, all these appeals are taken up for final disposal today.

2. The abovenumbered appeals filed under Section 54 of the Land Acquisition Act, 1894 (“the Act” for short) read with Section 96 of the Code of Civil Procedure, 1908 are directed against common judgment and award dated August 9, 2002 rendered by the learned Extra Assistant Judge, Mehsana, in Land Acquisition Reference Nos.542 of 1997 to 561 of 1997 by which the Reference Court has awarded to the claimants compensation at the rate of Rs.20/- per square metre for their acquired lands.

3. A proposal was received by the State Government to acquire the lands of Village: Dedana, Taluka: Bechraji, District: Mehsana, for the public purpose of construction of Zinzuvada Branch Canal of Narmada Canal Project. On scrutiny of the said proposal, the State Government was satisfied that the lands of Village: Dedana were likely to be needed for the said public purpose. Therefore, notification under Section 4(1) of the Act was issued, which was published in the official gazette on June 22, 1993. The land-owners were served with notices and they filed objections against the proposed acquisition. After considering their objections, a report was submitted by the Special Land Acquisition Officer to the State Government as contemplated by

Section 5A(2) of the Act. On consideration of the said report, the State Government was satisfied that the lands of Village: Dedana were required for the public purpose of construction of Zinzuvada Branch Canal of Narmada Project. Therefore, a declaration under Section 6 of the Act was made, which was published in the official gazette on March 19, 1997. The interested persons were thereafter served with the notices under Section 9 of the Act for determination of the compensation. Having regard to the materials placed before him, the Land Acquisition Officer offered compensation to the claimants at the Rate of Rs.1.35 paise per square metre though their claim was for Rs.20/- per square metre. The claimants were of the opinion that the offer of the compensation made by the Special Land Acquisition Officer was inadequate. Therefore, they submitted written applications requiring the Special Land Acquisition Officer to refer the matters to the Court for the purpose of determination of the compensation payable to them. Accordingly, references were made to the District Court, Mehsana, which were numbered as noticed earlier.

4. On behalf of the claimants, Mr.Khemabhai Ramjibhai Patel, who was claimant in Land Acquisition

Reference No.555 of 1997, was examined at Exhibit 22. He stated in his testimony that all the claimants were growing three different crops such as cotton, millet, *jiru, raido,* wheat, etc. and that each claimant was earning income of Rs.40,000/- per *vigha* per year. It was further mentioned by the said witness that after deducting the cost of cultivation, each claimant was earning net income of Rs.27,000/- per *vigha* per year. According to him, the population of Village Dedana was about 3000 to 4000 and all the facilities such as; water, light, telephone, bank, high-school, cooperative society, etc. were available in the village. The witness further explained in his testimony that the village was connected by tar road with important places and taluka town Bechraji was situate at a distance of 2 Kilometres away from the acquired lands. It was also mentioned by him that there was common boundary between village Bechraji, village Bantai and village Dedana. What was asserted by the witness in his testimony before the Court was that the fertility of the lands situate at village Bechraji and village Dedana was the same. It was further mentioned that village Rantai was at a distance of 4 Kilometres away from the acquired lands. In support of the assertions made by him that the claimants were growing

different crops such as cotton, millet, wheat, etc., the witness produced 7/12 extract at Exh.15. The witness further produced award of the Reference Court rendered in Land Acquisition Reference No.1134 of 1994 relating to the lands of village Bechraji at Exhibit 16 in support of the claim that the claimants were entitled to enhanced compensation. The witness also produced judgment of the Reference Court relating to the lands of village Rantai at Exhibit 17. It was mentioned by the witness that against the judgment of the Reference Court relating to the lands of village Rantai, First Appeal Nos.1842 to 1851 of 2000 were filed in this Court, which was dismissed, and in support of this assertion, the witness produced judgment of the High Court at Exhibit 18.

5. On behalf of the acquiring body, two witnesses were examined, i.e. (1) Deputy Mamlatdar Kantilal Madhavlal Patel at Exhibit 24; and, (2) Deputy Engineer Amrutbhai Maganbhai Patel at Exhibit 25. What was asserted by the witnesses examined by the acquiring body was that the award was rendered by the Special Land Acquisition Officer after taking into consideration the relevant facts of the case and, therefore, the claimants were not entitled to enhanced compensation. However, in

cross-examination, they had to admit that boundaries of village Bechraji and village Dedana were common and that the lands of both the villages were of the same quality. It was also admitted by the witnesses that from village Dedana, the boundary of Ahmedabad starts.

6. On appreciation of the evidence adduced by the parties, the Reference Court was of the opinion that the previous awards produced by the claimants furnished good guidance for determining the market value of the lands acquired in the instant case from village Dedana. After placing reliance on those awards, the Reference Court held that the claimants are entitled to compensation at the rate of Rs.20/- per square metre for their acquired lands by judgment and award dated August 9, 2002 giving rise to the instant appeals.

7. This Court has heard Mr.R.C.Kodekar, learned Assistant Government Pleader appearing for the appellants in each appeal, and Mr.A.J.Patel, learned counsel appearing for the claimant(s) in each appeal, at great length and in detail. This Court has also considered the documentary evidence produced by the learned advocates for the parties for perusal of the Court.

8. From the testimony of the witness examined on behalf of the claimants and the testimony of witnesses examined by the acquiring authorities, there is no manner of doubt that villages Bechraji and Bantai are situate near village Dedana. There is also no manner of doubt that the lands acquired were irrigated lands. The assertion made by the witness of the claimants that the lands of village Bechraji, village Bantai and village Dedana had the same fertility, could not be demonstrated to be untrue. What is relevant to notice is that the witnesses examined on behalf of the acquiring authorities have admitted, in terms, that the boundary of village Bechraji and village Dedana is common and that the boundary of Ahmedabad City begins from village Dedana. It is relevant to notice that no sale deed was produced before the Reference Court to enable it to determine the market value of the lands acquired from village Dedana. The Supreme Court has ruled in catena of decisions that previous awards relating to the lands acquired from adjoining village and which have become final, can be taken into consideration while determining the market value of the lands from another village. Under the circumstances, this Court is of the opinion that the

Reference Court did not commit any error in placing reliance on the previous awards for the purpose of determining the market value of the lands acquired from village Dedana. Exh.16 indicates that it is the judgment and award rendered on January 12, 2001 by the learned Extra Assistant Judge, Mehsana, in Land Acquisition Reference No.1131 of 1994 relating to the lands of village Bechraji. In the said case, the Special Land Acquisition Officer had awarded compensation at the rate of Rs.4/- per square metre. Feeling aggrieved, the claimants had sought references. The claim of the claimants was that they should have been awarded compensation at the rate of Rs.150/- per square metre. Having regard to the materials placed before the Reference Court, the Reference Court awarded compensation to the claimants at the rate of Rs.20/- per square metre. Again, Exhibit 17 is the award rendered by the learned 2nd Extra Assistant Judge & Special Judge (L.A.R.), Ahmedabad (Rural) at Mirzapur, in Land Acquisition Case Nos.708 of 1996 to 718 of 1996 relating to the lands of village Rantai, Taluka: Viramgam, District: Ahmedabad. Therein, the Special Land Acquisition Officer had awarded compensation to the claimants at the rate of Rs.1.50 paise per square metre. However, having regard to the

materials placed before the Reference Court, the Reference Court awarded compensation to the claimants at the rate of Rs.20/- per square metre. The claimants have produced judgment rendered in First Appeal No.1842 of 2001 to 1851 of 2001 dated January 18, 2001 by the Division Bench of this Court comprising M.R.Calla & J.R.Vora, JJ. It indicates that the award dated December 8, 1999 rendered by the learned 2nd Extra Assistant Judge & Special Judge (L.A.R.), Ahmedabad (Rural) at Mirzapur, in Land Acquisition Case Nos.708 of 1996 to 718 of 1996, was confirmed. Further, the claimants have produced judgment and award rendered by the learned 3rd Extra Assistant Judge & Special Judge (L.A.R.), Ahmedabad (Rural) at Mirzapur, in Land Acquisition Reference Nos.393 of 1996 to 419 of 1996 relating to the lands of village Bantai, Taluka: Viramgam, District: Ahmedabad. The said judgment indicates that the lands of village were acquired for the purpose of construction of Kharaghoda canal of Narmada Canal Project. Therein, the Land Acquisition Officer had awarded compensation to the claimants at the rate of Rs.1.05 paise per square metre for irrigated lands and Rs.0.70 paise for non-irrigated lands. Feeling aggrieved, the claimants had sought references and the Reference Court awarded additional

compensation to the claimants at the rate of Rs.19.30 paise per square metre for irrigated lands and Rs.18.95 paise per square metre for non-irrigated lands.

9. On reappreciation of the evidence adduced by the parties, this Court is of the opinion that the Reference Court was justified in placing reliance on the previous awards of the Reference Court for the purpose of determining the market value of the lands acquired from village Dedana. This Court finds that correct principles of law have been applied by the Reference Court to the proved facts and just compensation has been awarded to the claimants. The learned Assistant Government Pleader could not point out any error in the impugned judgment necessitating interference of this Court in the instant appeals. The appeals, which lack merits, deserve to be dismissed.

For the foregoing reasons, the appeals fail and are dismissed. There shall be no orders as to costs.

[J.M.PANCHAL, J.]

[BANKIM N. MEHTA, J.]

Rajendra